



Diane N. Tradd
Assistant City Manager/Director

R. Eric Slagle
Director

Shaun Shanahan
Building Commissioner

MEMORANDUM

TO: Chairman Bailey and Members of the Zoning Board of Appeals

FROM: Christine McCall, Assistant Planner
Dept. of Planning and Development, Div. of Development Services

CC: R. Eric Slagle, Director
Shaun Shanahan, Building Commissioner
Shawn Machado, Board Enforcement Agent
Judy Tymon, Senior Planner
Joseph Giniewicz, Associate Planner

DATE: August 10, 2016

RE: 1288.1 Westford Street/85 Parkhurst Road (Popeye's)

PROJECT SUMMARY

An application by Chelmsford Chicken, LLC seeking Special Permit and Variance approval at 1288.1 Westford Street/85 Parkhurst Road to operate the existing drive through lane and service window. The existing Popeyes Louisiana Kitchen Restaurant is situated on the boundary line of Chelmsford and Lowell in the Regional Retail (RR) zoning district and requires Special Permit approval from the Zoning Board under Art. 12: Table of Uses, and Variance approval from the Zoning Board under Section 6.3 of the Lowell Zoning Ordinance.

DECISION CRITERIA (Special Permit)

The Board shall grant a Special Permit only upon its written determination that the adverse affects of the proposed use and structure do not outweigh its beneficial impacts to the city or the neighborhood, in view of the particular characteristics of the site, and the proposal in relation to that site, and find that the following criteria have been adequately addressed:

1. Social, economic, or community needs which are served by the proposal;
2. Traffic flow and safety, including parking and loading;
3. Adequacy of utilities and other public services;
4. Neighborhood Character and social structures;
5. Impacts on the natural environment; and
6. Potential fiscal impact, including impact on city services, tax base, and employment.

DECISION CRITERIA & PREREQUISITES (Variance)

The Lowell Zoning Ordinance and Massachusetts General Law (Ch. 40A, Sec. 10) state that the Zoning Board must find the following zoning prerequisites have been met before a variance may be granted. Specifically, section 11.2.3 states that, “the Board of Appeals is authorized to grant a variance from zoning ordinances only if each of the following jurisdictional conditions” exist:

1. Special hardship “owing to circumstances relating to the soil conditions shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district.”
2. If “relief can be granted without substantial detriment to the public good.”
3. Relief requested can be granted “without nullifying or substantially derogating from the intent of the zoning.”

COMMENTS

1. The subject parcel is situated on the boundary line of Chelmsford and Lowell in the Regional Retail (RR) zoning district. The business was permitted through the Town of Chelmsford and has been operational since 2013.
2. The applicant is petitioning the Board to operate the drive-thru and window service. They are seeking a Variance for the internally illuminated menu boards and a Special Permit for use of the drive-through.
3. The petitioner, as part of the application, requested the Board waive various Site Plan requirements since the existing building has been fully operational since 2013. All health and building permits are issued by the Town of Chelmsford.
 - a. The Site Plan only shows seven (7) cars utilizing the drive-through lane. However, the subject property is capable of queuing ten (10) cars as the zoning ordinance requires.
4. The petitioner has indicated that no site work is required to open and utilize the drive-through window and drive-through lane. As such, Development Services supports this petition.
5. The application has been reviewed by the City Engineer, Fire Prevention, and our Transportation Engineer and they do not have any concerns or comments to offer the Board regarding this petition.